

REMARKS/ARGUMENTS

Status of Claims

Claims 1-20 were filed in the present application, and are currently rejected. As outlined above, Claims 1, 11, and 17-19 have been amended; and no claims have been canceled or added. Therefore, Claims 1-20 remain pending in this application.

The amended claims are fully supported in the specification as originally filed. In particular, the newly added language in Claims 1 and 11 is supported in the specification at page 7, lines 25-29. The amendments to Claims 17-19 merely add the implied units to the claimed values.

Rejections

Claims 1-20 stand rejected under 35 U.S.C. 102(b) as being anticipated by Trepagnier et al., US Pat. Appn. No. 2002/00116534 ("Trepagnier"). Applicants respectfully traverses this rejection.

The present invention relates to a method of determining skin health of an area of skin. The method includes (i) exposing said area of skin to a first exposure radiation to induce said area of skin to emit a first fluorescent emission; (ii) measuring the intensity of said first fluorescent emission having a wavelength of from about 320 nm to about 350 nm; (iii) exposing said area of skin to a second exposure radiation to induce said area of skin to emit a second fluorescent emission; (iv) measuring the intensity of said second fluorescent emission having a wavelength of from about 380 nm to about 470 nm; (v) comparing said ratio to a control ratio; and (vi) determining and reporting a skin health based on said compared ratio. The first exposure radiation comprises primarily of wavelengths of from about 290 nm to about 300 nm, and the second exposure radiation comprises primarily of wavelengths of from about 330 nm to about 420 nm.

Trepagnier purports to disclose instruments and methods for performing non-invasive measurements of analyte levels and for monitoring, analyzing, and regulating tissue status, such as tissue glucose levels.

The Office Action indicates that Trepagnier discloses an instrument that is capable of emitting and detecting a first source of radiation (e.g., emitting 285-305 nm

and detecting 315-420 nm) and a second source (e.g., emitting 320-370 nm and detecting 420-510 nm).

However, Applicants respectfully submit that anticipation requires “identity of invention.” Each and every element recited in a claim must be found in a single prior art reference and arranged as in the claim. Furthermore, there must be no difference between what is claimed and what is disclosed in the applied reference.

The presently claimed invention relates to determining the health of skin, not glucose levels. This invention also determines and reports a skin health based on the ratio compared between the first and second emission profiles. This determination is not taught, or even suggested, in the cited reference. Therefore, Applicants respectfully submit that this rejection cannot stand.

Applicants believe that the foregoing presents a full and complete response to the outstanding Office Action. Applicants look forward to an early notice of allowance for this application.

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